

SENATE BILL No. 26

DIGEST OF INTRODUCED BILL

Citations Affected: IC 34-18-8-6.

Synopsis: Medical malpractice actions. Permits a patient to bring an action against a health care provider without submitting the complaint to the medical review board if the amount of the claim is not more than \$187,000. (Under current law, a patient may bring a direct action only if the amount is not more than \$15,000.)

Effective: July 1, 2019.

Randolph Lonnie M

January 3, 2019, read first time and referred to Committee on Judiciary.



First Regular Session of the 121st General Assembly (2019)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2018 Regular and Special Session of the General Assembly.

SENATE BILL No. 26

A BILL FOR AN ACT to amend the Indiana Code concerning civil procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 34-18-8-6 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 6. (a) Notwithstanding
3 section 4 of this chapter, a patient may commence an action against a
4 health care provider for malpractice without submitting a proposed
5 complaint to a medical review panel if the patient's pleadings include
6 a declaration that the patient seeks damages from the health care
7 provider in an amount not greater than ~~fifteen thousand dollars~~
8 **(\$15,000). one hundred eighty-seven thousand dollars (\$187,000).**
9 In an action commenced under this subsection (or IC 27-12-8-6(a)
10 before its repeal), the patient is barred from recovering any amount
11 greater than ~~fifteen thousand dollars (\$15,000)~~; **one hundred**
12 **eighty-seven thousand dollars (\$187,000)**, except as provided in
13 subsection (b).
14 (b) A patient who:
15 (1) commences an action under subsection (a) (or IC 27-12-8-6(a)
16 before its repeal) in the reasonable belief that damages in an
17 amount not greater than ~~fifteen thousand dollars (\$15,000)~~ **one**



1 **hundred eighty-seven thousand dollars (\$187,000)** are adequate
 2 compensation for the bodily injury allegedly caused by the health
 3 care provider's malpractice; and

4 (2) later learns, during the pendency of the action, that the bodily
 5 injury is more serious than previously believed and that ~~fifteen~~
 6 ~~thousand dollars (\$15,000)~~ **one hundred eighty-seven thousand**
 7 **dollars (\$187,000)** is insufficient compensation for the bodily
 8 injury;

9 may move that the action be dismissed without prejudice and, upon
 10 dismissal of the action, may file a proposed complaint subject to
 11 section 4 of this chapter based upon the same allegations of malpractice
 12 as were asserted in the action dismissed under this subsection. In a
 13 second action commenced in court following the medical review
 14 panel's proceeding on the proposed complaint, the patient may recover
 15 an amount greater than ~~fifteen thousand dollars (\$15,000)~~. **one**
 16 **hundred eighty-seven thousand dollars (\$187,000)**. However, a
 17 patient may move for dismissal without prejudice and, if dismissal
 18 without prejudice is granted, may commence a second action under this
 19 subsection only if the patient's motion for dismissal is filed within two
 20 (2) years after commencement of the original action under subsection
 21 (a) (or IC 27-12-8-6(a) before its repeal).

22 (c) If a patient:

23 (1) commences an action under subsection (a) (or IC 27-12-8-6(a)
 24 before its repeal);

25 (2) moves under subsection (b) (or IC 27-12-8-6(b) before its
 26 repeal) for dismissal of that action;

27 (3) files a proposed complaint subject to section 4 of this chapter
 28 based upon the same allegations of malpractice as were asserted
 29 in the action dismissed under subsection (b) (or IC 27-12-8-6(b)
 30 before its repeal); and

31 (4) commences a second action in court following the medical
 32 review panel proceeding on the proposed complaint;

33 the timeliness of the second action is governed by IC 34-18-7-1(c).

34 (d) A medical liability insurer of a health care provider against
 35 whom an action has been filed under subsection (a) (or IC 27-12-8-6(a)
 36 before its repeal) shall provide written notice to the state health
 37 commissioner as required under IC 34-18-9-2.

